C.D.-I (a) Continuation Sheet

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% 03.04.2006

Present: Ms. Geetanjali Mohan for the Appellant.

+ FAO (OS) No.187/2006 & CM Nos.4952-54/2006
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The Union of India (hereinafter referred to as the `appellant') has filed this appeal aggrieved by an order of the learned Single Judge dated 30.11.2005 by which its objections under Section 34(2)(a) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the `Act') have been dismissed.

Learned counsel for the appellant relying upon Clauses 4.1, 7.2, 22.5 and 3.3 of the contract between the parties has contended that the Arbitral award dated 16.8.2005 is contrary to the terms of the contract between the parties contained in the above clauses. Broadly speaking, the appellant had challenged the arbitral award in respect of four claims preferred by the respondent and they are claim Nos.1,2,8 and 9.

We have gone through the arbitral award as well as the impugned order of the learned Single Judge by which objections of the appellant against the said Award have been dismissed. On going through the same, we find that the learned Single Judge has given cogent reasons in rejecting the objections of the

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appellant in respect of the above claims of the respondent. It shall be relevant to the note that the arbitral award against which objections were filed by the appellant was given by a Tribunal of three Arbitrators including the nominee of the appellant and that the said Award is a unanimous Award. The Arbitrators are technical people and have considered the ramifications at site as also the various obligations and counter obligations of the parties under the contract.

Learned counsel for the appellant relying upon a judgment of a Division Bench of the Gauhati High Court in Arbitration Appeal No.4/2001 (***Union of India*** v. ***Major V.P. Ninhawan (Retd.) and another***) has contended that the Arbitrator had no power to grant interest. It was contended that the facts of the case decided by the Gauhati High Court in the aforementioned case resemble with the facts of the present case.

We have considered the said judgment and, in our view, the above judgment of the Gauhati High Court is not applicable to the facts of the present case and the said decision has been rightly distinguished by the learned Single Judge in the impugned order.

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		In view of the above, we hardly find any infirmity or illegality in the impugned order calling for our interference in exercise of appellate jurisdiction. Hence, this appeal is dismissed.

VIJENDER JAIN, J

S.N. AGGARWAL, J

APRIL 03, 2006
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